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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,573	01/17/2002	Robert W. Luffel	10001582-5	1003

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HEWLETT-PACKARD COMPANY  
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EXAMINER

TRAN, KHOA H

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 05/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/051,573

Applicant(s)

Luffel et al.

Examiner

Khoa Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 17, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 02 6) ☐ Other:

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## **DETAILED ACTION**

### ***Abstract***

The abstract is objected to because it uses phrases which can be implied, such as “according to one embodiment of the present invention”, which should be avoided. Correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claims 1, 14, 15, and 16, the claims appear to be misleading or/and misdescriptive because the claims set forth the device and the chassis as the two separate structures. It should be noted that the device itself is the chassis. Further, it is unclear what specific structure does the term “device” requires? And what specific structure/orientation is being required by the term “pathway”? With respect to claims 2 and 3, it should be noted that an apparatus is supposed to be defined by what it is and not suppose to define by what it is not. With respect to claim 15, the function for the “cabinet means”, “device means” and “housing means” have not been properly set forth. In particular, the reciting of various means follow by the

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word “defining” or “having” in attempting to recite the claim element as a means for performing a specified function. However, the reciting words “defining” and “having” are not the same as reciting what function the means is performing. Accordingly, the failure to properly recite a function for the “cabinet means” “device means” and “housing means” in accordance with the sixth paragraph of Section 112 will result in the element being read merely as a “cabinet” “device” and “housing”.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 9, 11, and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Cherry. The claims are of such breadth that they read on the rack-mount storage system of Cherry. Cherry discloses a rack-mount storage system comprising an equipment cabinet (10)

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having at least one device opening sizes (the front opening of the cabinet shows to receive a device 40) to receive first and second devices (40). Each device has at least one mounting pathways (28) located near the bottom surface of the device. At least one support means/spars (16) being sized to engage and support with the respective individual mounting pathway (28), wherein the support means/spars support the first and second devices in the device opening of the equipment cabinet. See Figures 1, 3 and 4.

Claims 1, 9, 11, and 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Byrne et al. The claims are of such breadth that they read on the rack-mount storage system of Byrne et al. Byrne et al. disclose a rack-mount storage system comprising an open front cabinet (110), a plurality of side-by-side devices (315), each having at least one mounting pathway (the pathway between 317 and 319 members) sized to receive a support spar (305). The device defining a chassis (14) sized to receive at least one electronic component therein, see Figures 1 and 3. The support spar being sized to engage and support by the cabinet.

Claims 1-4, 7-9, 11-19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Whiten et al. The claims are of such breadth that they read on the rack-mount storage system of Whiten et al. Whiten et al. disclose a rack-mount storage system comprising a cabinet having first and second devices (58). Each device defining a chassis comprises two opposite sidewalls (60) connected to a top surface (62) and a bottom surface (64), a channel defining between sidewalls (60) and at least one mounting pathway channels (holes on the sidewalls of the device (58))

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locates adjacent to the top surface (62) of the device so as to receive a supporting means/spar (54, 56) extending through between side faces of the chassis and engage with sidewalls of the cabinet. The mounting pathways (holes on the side faces of the device (58)) locate fore-and-aft at the center gravity of the devices, see Figure 1. The first device is secured to the second device through the supporting means/spars, wherein the supporting means/spars are being supported by the first and second mounting rails (40), which are spaced apart at both sides of the cabinet. See Figures 1-3.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whiten et al. as applied to claims 1-4, 7-9, 11-19 and 21 above, and further in view of Robertson et al. Robertson teaches the provision of a supporting means/spar (48) that is curved up higher at the center by the provision of a sleeve (46), wherein the center of support means/spar is higher than both ends of the spar. See Figure 1. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the supporting means/spars of Whiten et al.

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with the provision of a sleeve as taught by Robertson et al. in order to promote adjustability of the spar by having the spar slidably adjusted within the sleeve. With respect to claim 5, aluminum is a well-known and commercially available material known for its lightweight properties.

Accordingly, it would have been obvious to one ordinary skill in the art as a matter of engineering design choice to utilize aluminum as the particular material for constructing a support spar because of its durability and lightweight and because it is well-within the level of skill in the art to utilize the known features of the art for the purpose for which they are known.

The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. Yancey, Charles William Sosinski, Duchesne et al., Lewis, Jensen et al., Pennington, Timor, Tuvy et al., E. L. Bleier et al., Stockmaster, Flamme et al., Braga et al., Petrunia, Walters et al., Johnston et al., Ott et al., and Magenheimer are cited to show devices having similar configurations of design.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 8:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

If the applicant is submitted by facsimile transmission, applicant is hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission.

Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. \_\_\_\_\_ ) on \_\_\_\_\_  
(Date)

Type or printed name of person signing this certificate:

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\_\_\_\_\_  
(Signature)

Furthermore, please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the



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response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Khoa Tran

April 06, 2002

A handwritten signature in black ink that reads "Daniel P. Stodola". The signature is written in a cursive style with a large, looped initial 'D'.

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600